

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ADELAIDA RUBIO-MODICA,

Plaintiff,

10CV1428 (SJ) (RML)

- against -

ORDER REMANDING
ACTION TO STATE
COURT

SALVATORE MODICA,

Defendant.

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A P P E A R A N C E S

LAW OFFICE OF CHRISTOPHER JAY

9 Bellport Lane

Bellport, NY 11713

By: Christopher Jay

Attorney for Plaintiff

JOSEPH A. MILLIGAN

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P.O. Box

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By: Joseph A. Milligan

Attorney for Defendant

JOHNSON, Senior District Judge:

Review of the record in the above-referenced action indicates that plaintiff Adelaida Rubio-Modica (“Plaintiff”) filed the instant action on or about February 15, 2010 in New York State Supreme Court in the County of Queens. Plaintiff then removed the action to this district, citing both 28 U.S.C. § 1331 and 28 U.S.C. § 1332 as bases of jurisdiction. Noting that “[i]t is beyond peradventure of a doubt

that the right of removal is vested exclusively in defendants,” Magistrate Roanne L. Mann, on April 13, 2010, ordered Plaintiff to show cause why the action should not be remanded back to state court (the “Order”). (Dkt No. 2.) On April 16, 2010, Plaintiff responded to the Order, conceded the inapplicability of federal removal statutes, and moved the court to remand the action back to state court.

Accordingly, the Court hereby dismisses the action with prejudice.

SO ORDERED.

Dated: May 10, 2010
Brooklyn, New York

/s/
Sterling Johnson, Jr.
United States Senior District Judge
Eastern District of New York